

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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MICHAEL COTA,

Petitioner,

v.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:21-cv-00399-MMD-CLB

ORDER

In this habeas corpus action, the Court appointed counsel for Petitioner Michael Cota. (ECF No. 19.) The Federal Public Defender for the District of Nevada appeared on Petitioner's behalf on December 28, 2021. (ECF No. 27.) Respondents have also appeared. (ECF Nos. 12, 18.) The Court will therefore set a schedule for further proceedings in this action as follows.

Petitioner will have 90 days from the date of this Order to file an amended petition for writ of habeas corpus. The amended petition must specifically state whether each ground for relief has been exhausted in state court; for each claim exhausted in state court, the amended petition must state how, when, and where that occurred.

Respondents will have 60 days following the filing of the amended petition to file an answer or other response to the amended petition.

Petitioner will have 45 days following the filing Respondents' answer to file a reply. Respondents will thereafter have 30 days following the filing of a reply to file a response to the reply.

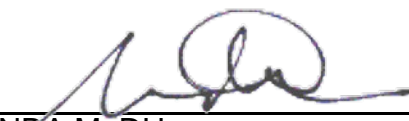
If Respondents file a motion to dismiss, Petitioner will have 60 days following the filing of the motion to file a response to the motion. Respondents will thereafter have 30 days following the filing of the response to file a reply.

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1 If Petitioner wishes to move for leave to conduct discovery, Petitioner must file
2 such motion concurrently with, but separate from, the response to Respondents' motion
3 to dismiss or the reply to Respondents' answer. Any motion for leave to conduct discovery
4 filed by Petitioner before that time may be considered premature, and may be denied,
5 without prejudice, on that basis. Respondents must file a response to any such motion
6 concurrently with, but separate from, their reply in support of their motion to dismiss or
7 their response to Petitioner's reply. Thereafter, Petitioner will have 20 days to file a reply
8 in support of the motion for leave to conduct discovery.

9 If Petitioner wishes to request an evidentiary hearing, Petitioner must file a motion
10 for an evidentiary hearing concurrently with, but separate from, the response to
11 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for an
12 evidentiary hearing filed by Petitioner before that time may be considered premature, and
13 may be denied, without prejudice, on that basis. The motion for an evidentiary hearing
14 must specifically address why an evidentiary hearing is required and must meet the
15 requirements of 28 U.S.C. § 2254(e). The motion must state whether an evidentiary
16 hearing was held in state court, and if so, state where the transcript is located in the
17 record. If Petitioner files a motion for an evidentiary hearing, Respondents must file a
18 response to that motion concurrently with, but separate from, their reply in support of their
19 motion to dismiss or their response to Petitioner's reply. Thereafter, Petitioner will have
20 20 days to file a reply in support of the motion for an evidentiary hearing.

21 DATED THIS 29th Day of December 2021.

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26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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